CABINET FOR HEALTH AND FAMILY SERVICES

Department for Medicaid Services

Division of Hospital and Provider Operations

(Amendment)

907 KAR 1:012. Inpatient hospital services.

RELATES TO: KRS 205.520

STATUTORY AUTHORITY: KRS 194A.050, 42 CFR 440.10, 42 USC 1396, a, b, d, r-4[~~, EO 2004-726~~]

NECESSITY, FUNCTION, AND CONFORMITY: [~~EO 2004-726, effective July 9, 2004, reorganized the Cabinet for Health Services and placed the Department for Medicaid Services and the Medicaid Program under the Cabinet for Health and Family Services.~~] The Cabinet for Health Services has responsibility to administer the Medicaid Program. KRS 205.520 authorizes the cabinet, by administrative regulation, to comply with any requirement that may be imposed or opportunity presented by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This administrative regulation establishes the provisions relating to inpatient hospital services for which payment shall be made by the Medicaid Program for a hospital inpatient service.

Section 1. Definitions.

(1) “Department” means the Department for Medicaid Services or its designee.

(2) “Emergency” means a condition or situation which requires an emergency

service pursuant to 42 CFR 447.53.

(3) "Medical necessity" or "medically necessary" means that a covered benefit is determined to be needed in accordance with 907 KAR 3:130

(4) “Non-emergency” means a condition which does not require an emergency service pursuant to 42 CFR 447.53.

Section 2. Prior Authorization.

(1) To be covered by the department, a nonemergency admission, prior to the admission, shall be determined by the department to be:

(a) Medically necessary; and

(b) Effective August 1, 2006, clinically appropriate pursuant to the criteria established in 907 KAR 3:130.

(2) The requirements established in subsection (1) of this Section shall not apply to an emergency admission. [~~Definition. “Medical necessity” or “medically necessary” means that a covered benefit shall be:~~

~~(1) Provided in accordance with 42 CFR 440.230;~~

~~(2) Reasonable and required to identify, diagnose, treat, correct, cure, ameliorate, palliate, or prevent a disease, illness, injury, disability, or other medical condition, including pregnancy;~~

~~(3) Clinically appropriate in terms of amount, scope and duration based on generally-accepted standards of good medical practice;~~

~~(4) Provided for medical reasons rather than primarily for the convenience of the recipient, caregiver, or the provider;~~

~~(5) Provided in the most appropriate location, with regard to generally-accepted~~

~~standards of good medical practice, where the service may for practical purposes be safely and effectively provided;~~

~~(6) Needed, if used in reference to an emergency medical service, to evaluate or stabilize an emergency medical condition that is found to exist using the prudent layperson standard; and~~

~~(7) If applicable, provided in accordance with early and periodic screening, diagnosis, and treatment (EPSDT) requirements established in 42 USC 1396d(r) and 42 CFR Part 441.~~

~~Section 2. Prior Authorization. A Nonemergency admission shall have prior approval of medical necessity by the designated peer review organization in order for the admission to be covered under the Medicaid Program. This requirement shall not apply to emergency admissions. Weekend stays associated with a Friday or Saturday admission for an elective surgical or diagnostic procedure shall not be reimbursed unless an emergency exists.~~]

Section 3. Covered Admissions.

(1) An admission [~~Admissions~~] primarily indicated in the management of acute or chronic illness, injury or impairment, or for maternity care that could not be rendered on an outpatient basis shall be covered.

(2) An admission [~~Admissions~~] relating to only observation or diagnostic purposes shall not be covered.

(3) Cosmetic surgery shall not be covered except as required for prompt repair of accidental injury or for the improvement of the functioning of a malformed or diseased body member.

(4) Unless an emergency exists, a weekend stay associated with a Friday or Saturday admission for an elective surgical or diagnostic procedure shall not be covered by the department.

(5) In accordance with 907 KAR 1:013, an admission for less than twenty-four (24) hours shall not be approved or reimbursed.

Section 4. Noncovered Services. Inpatient hospital services not covered shall include:

(1) A service which is not medically necessary including [~~to the patient's well-being~~, ~~such as~~] television, telephone or guest meals;

(2) Private duty nursing;

(3) Supplies, drugs, appliances, or equipment which are furnished to the patient for use outside the hospital unless it would be considered unreasonable or impossible from a medical standpoint to limit the patient's use of the item to the periods during which he is an inpatient;

(4) A laboratory test not specifically ordered by a physician and not done on a preadmission basis unless an emergency exists;

(5) Private accommodations unless medically necessary and so ordered by the attending physician; or

(6) The following listed surgical procedures, except if a life-threatening situation exists, there is another primary purpose for the admission, or the admitting physician certifies a medical necessity requiring admission to a hospital:

(a) Biopsy: breast, cervical node, cervix, lesions (skin, subcutaneous, submucous), lymph node (except high axillary excision), or muscle;

(b) Cauterization or cryotherapy: lesions (skin, subcutaneous, submucous), moles,

polyps, warts or condylomas, anterior nose bleeds, or cervix;

(c) Circumcision;

(d) Dilation: dilation and curettage (diagnostic or therapeutic nonobstetrical); dilation or probing of lacrimal duct;

(e) Drainage by incision or aspiration: cutaneous, subcutaneous, or joint;

(f) Pelvic exam under anesthesia;

(g) Excision: bartholin cyst, condylomas, foreign body, lesions lipoma, nevi (moles), sebaceous cyst, polyps, or subcutaneous fistulas;

(h) Extraction: foreign body or teeth;

(i) Graft, skin (pinch, splint or full thickness up to defect size three-fourths (3/4) inch diameter);

(j) Hymenotomy;

(k) Manipulation and reduction with or without x-ray; cast change: dislocations depending upon the joint and indication for procedure or fractures;

(l) Meatotomy or urethral dilation, removal calculus and drainage of bladder without incision;

(m) Myringotomy with or without tubes, otoplasty;

(n) Oscopy with or without biopsy (with or without salpingogram): arthroscopy, bronchoscopy, colonoscopy, culdoscopy, cystoscopy, esophagoscopy, endoscopy, gastroscopy, hysteroscopy, laryngoscopy, laparoscopy, peritoneoscopy, otoscopy, and sigmoidoscopy or procto sidmoidoscopy;

(o) Removal; IUD, fingernail or toenails;

(p) Tenotomy hand or foot;

(q) Vasectomy; or

(r) Z-plasty for relaxation of scar or contracture.

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REVIEWED:

Date	J. Thomas Badgett, MD, PhD, Acting Commissioner Department for Medicaid Services
Date	Mike Burnside, Undersecretary Administrative and Fiscal Affairs

APPROVED:

Date	Mark D. Birdwhistell, Secretary Cabinet for Health and Family Services

907 KAR 1:012

A public hearing on this administrative regulation shall, if requested, be held on August 21, 2006 at 9:00 a.m. in the Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by August 14, 2006, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. You may submit written comments regarding this proposed administrative regulation until close of business August 31, 2006. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Jill Brown, Office of Legal Services, 275 East Main Street 5 W-B, Frankfort, KY 40601, Phone: 502-564-7905, Fax: 502-564-7573.

REGULATORY IMPACT ANALYSIS
AND TIERING STATEMENT

Administrative Regulation #: 907 KAR 1:012
Cabinet for Health and Family Services
Department for Medicaid Services
Agency Contact Person: Stuart Owen (502-564-6204)

(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation establishes the coverage provisions for inpatient hospital care.
(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish the coverage provisions for inpatient hospital care.
(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes by establishing inpatient hospital care coverage provisions.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the authorizing statutes by establishing inpatient hospital care coverage provisions.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: The amendment establishes the utilization of clinical criteria by the department to determine the appropriateness of any given service.
(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to ensure appropriateness of care and to maintain the viability of the Medicaid program.
(c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms to the content of the authorizing statutes by establishing the use of clinical criteria to determine the appropriateness of care.
(d) How the amendment will assist in the effective administration of the statutes: The amendment to this administrative regulation assists in the effective administration of the statutes by establishing the use of clinical criteria to determine the appropriateness of care.

(3) List the type and number of individuals, businesses, organizations, or state and local government affected by this administrative regulation: This administrative regulation will affect all outpatient hospital service providers participating in the Kentucky Medicaid Program.

(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: Clinical criteria will be established for providers regarding the appropriateness of given care.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: The Department for Medicaid Services (DMS) is unable to determine a precise aggregate fiscal impact of the use of the criteria established in 907 KAR 3:130 to determine clinical appropriateness for multiple programs; however, anticipates a savings of at least $2.5 million ($1.7 million federal funds; $0.8 million state funds) annually.

(b) On a continuing basis: DMS is unable to determine a precise aggregate fiscal impact of the use of the criteria established in 907 KAR 3:130 to determine clinical appropriateness for multiple programs; however, anticipates a savings of at least $2.5 million ($1.7 million federal funds; $0.8 million state funds) annually.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The sources of revenue to be used for implementation and enforcement of this administrative regulation are federal funds authorized under the Social Security Act, Title XIX and matching funds of general fund appropriations.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: The current fiscal year budget will not need to be adjusted to provide funds for implementing this administrative regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish or increase any fees.

(9) Tiering: Is tiering applied? (Explain why tiering was or was not used)

Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it. Disparate treatment of any person or entity subject to this administrative regulation could raise questions of arbitrary action on the part of the agency. The “equal protection” and “due process” clauses of the Fourteenth Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution.